

# C

## Chapple v. Ganger

Robert L. Heilbronner  
Chicago Neuropsychology Group, Chicago, IL,  
USA

### Historical Background

In the case of *Daubert v. Merrell Dow* (1993), it was ruled that for scientific testimony to be admissible, it has to be (a) scientifically valid and (b) relevant to the case at hand. The court provided a list of guidelines intended to aid in the determination of scientific validity (e.g., peer reviewed, falsifiability, acceptable error rate, etc.). The *Daubert* ruling along with subsequent related rulings (e.g., *General Electric v. Joiner* 1997; *Kumho Tire v. Carmichael* 1999) generated significant debate among psychologists and neuropsychologists and many other disciplines. Specifically, Reed (1996) viewed the *Daubert* ruling to necessitate the utilization of commercially available fixed batteries only, such as the Halstead-Reitan Battery. However, most neuropsychologists employ a flexible battery approach; thus, contradicting Reed's assertions implying that most neuropsychologists would not be suited for involvement in forensic work. In support of his conclusion, Reed referenced the case of *Chapple v. Ganger* (1998), a brain injury claim. Review of

the judge's written decision in *Chapple v. Ganger* outlined that all neuropsychological testimony (even *partial* HRB protocols from two other neuropsychologists) was admitted into evidence and the fact that the judge had placed more emphasis on testimony from a fixed battery advocate was completely unrelated to the determination of the test battery. Indeed, there was no *Daubert* challenge to a flexible test battery approach. In this particular case, only the testimony of a vocational specialist who conducted no testing and provided no evidence in the form of a peer-reviewed study to support his claims was subject to a *Daubert* hearing from the defense.

### References and Readings

- Chapple v. Ganger*, 851 F. Supp. 1481, E.D. of Washington (1994).
- Daubert v. Merrell Dow Pharmaceuticals*, 509 U.S. 579 (1993).
- General Electric Co. v. Joiner*, 522 U.S. 136 (1997).
- Greiffenstein, M. F., & Cohen, L. (2005). Neuropsychology and the law: Principles of productive attorney-neuropsychologists relations. In G. Larrabee (Ed.), *Forensic neuropsychology: A scientific approach*. New York: Oxford University Press.
- Kumho Tire Co. v. Carmichael*, 526 U.S. 137 (1999).
- Reed, J. E. (1996). Fixed versus flexible neuropsychological test batteries under the *Daubert* standard for the admissibility of scientific evidence. *Behavioral Sciences and the Law*, 14, 315–322.